

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

SWCPP Ref. No.:	PPSSWC-417
Application number:	DA24/0264
Description of development:	Construction, Fit out and Use of Two Warehouse Buildings ('Warehouse 6' and 'Warehouse 7' of the Aspect Industrial Estate) and a Building containing a Cafe and a Site Maintenance Office, and Associated Works including Earthworks, Retaining Walls and Fencing
Classification of development:	N/A

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 301 DP 1300370 Lot 303 DP 1300370 Lot 304 DP 1300370 Lot 302 DP 1300370
Property address:	864 - 882 Mamre Road, KEMPS CREEK NSW 2178 844 - 862 Mamre Road, KEMPS CREEK NSW 2178 826 - 842 Mamre Road, KEMPS CREEK NSW 2178 788 - 824 Mamre Road, KEMPS CREEK NSW 2178

DETAILS OF THE APPLICANT

Name & Address:	Mirvac Industrial Developments Pty Ltd Level 28 200 George Street SYDNEY NSW 2000
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DECISION OF CONSENT AUTHORITY

In accordance with Section 2.12 and 4.18(1) (a) of the Environmental Planning and Assessment Act 1979 (as amended), consent is granted subject to the conditions implementation in attachment 1.

Please note that this consent will lapse on the expiry date unless the development has commenced in that time.

Decision:	Approve
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Date from which consent operates	19 March 2025
Date the consent expires	19 March 2030
Date of this decision	18 March 2025

POINT OF CONTACT

If you have any questions regarding this determination you should contact:

Assessing Officer:	Robert Walker
Contact telephone number:	+61247327409

NOTES

Reasons

The conditions in the attached schedule have been imposed in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 as amended.

Conditions

Your attention is drawn to the attached conditions of consent in attachment 1.

Certification and advisory notes

You should also check if this type of development requires a construction certificate in addition to this development consent.

It is recommended that you read any Advisory Note enclosed with this notice of determination.

Review of determination

The applicant may request Council to review its determination pursuant to Division 8.2 of the Environmental Planning and Assessment Act 1979 within six months of receiving this Notice of Determination.

These provisions do not apply to designated development, complying development or crown development pursuant to Section 8.2(2) of the Environmental Planning and Assessment Act 1979.

Appeals in the Land and Environment Court

The applicant can appeal against this decision in the Land and Environment Court within six months of receiving this Notice of Determination.

There is no right of appeal to a decision of the Independent Planning Commission or matters relating to a complying development certificate pursuant to clause 8.6(3) of the Environmental Planning and Assessment Act 1979.

Designated development

If the application was for designated development and a written objection was made in respect to the application, the objector can appeal against this decision to the Land and Environment Court within 56 days after the date of this notice.

If the applicant appeals against this decision, objector(s) will be given a notice of the appeal and the objector(s) can apply to the Land and Environment Court within 56 days after the date of this appeal notice to attend the appeal and make submissions at that appeal.

Sydney Western City Planning Panels

If the application was decided by the Sydney Western City Planning Panel, please refer to Section 2.16 of the Environmental Planning and Assessment Act, 1979 (as amended) for any further regulations.

ATTACHMENT 1: CONDITIONS OF CONSENT

General

1 The development must be implemented substantially in accordance the following stamped approved plans and supporting information received with the application, except as varied by any conditions within this consent:

- Lot 6 Site & Warehouse Floor Plan, Drawing No. AIE.06.DA601, Issue G, prepared by SBA Architects, dated 20 February 2025
- Lot 6 Signage Plan, Drawing No. AIE.06.DA602, Issue B, prepared by SBA Architects, dated 24 January 2025
- Lot 6 Permeable Paving Plan, Drawing No. AIE.06.DA603, Issue A, prepared by SBA Architects, dated 4 February 2025
- Lot 6 Roof Plan, Drawing No. AIE.06.DA605, Issue F, prepared by SBA Architects, dated 12 February 2025
- Office 6A Plans, Drawing No. AIE.06.DA610, Issue D, prepared by SBA Architects, dated 12 February 2025
- Office 6B Plans, Drawing No. AIE.06.DA620, Issue D, prepared by SBA Architects, dated 12 February 2025
- Lot 6 Overall Elevations, Drawing No. AIE.06.DA630, Issue D, prepared by SBA Architects, dated 14 February 2025
- Office 6A Elevations, Drawing No. AIE.06.DA635, Issue D, prepared by SBA Architects, dated 12 February 2025
- Office 6B Elevations, Drawing No. AIE.06.DA640, Issue D, prepared by SBA Architects, dated 12 February 2025
- Lot 6 Overall Sections, Drawing No. AIE.06.DA650, Issue C, prepared by SBA Architects, dated 7 February 2025
- Lot 7 Site & Warehouse Floor Plan, Drawing No. AIE.07.DA701, Issue J, prepared by SBA Architects, dated 20 February 2025
- Lot 7 Signage Plan, Drawing No. AIE.07.DA702, Issue C, prepared by SBA Architects, dated 14 February 2025
- Lot 7 Permeable Paving Plan, Drawing No. AIE.07.DA703, Issue A, prepared by SBA Architects, dated 4 February 2025
- Lot 7 Roof Plan, Drawing No. AIE.07.DA705, Issue F, prepared by SBA Architects, dated 7 February 2025
- Lot 7 Office Plans, Drawing No. AIE.07.DA710, Issue E, prepared by SBA Architects, dated 7 February 2025
- Cafe Plans, Drawing No. AIE.07.DA720, Issue D, prepared by SBA Architects, dated 7 February 2025
- Cafe Elevation & Section, Drawing No. AIE.07.DA721, Issue D, prepared by SBA Architects, dated 24 January 2025
- Lot 7 Overall Elevations, Drawing No. AIE.07.DA730, Issue E, prepared by SBA Architects, dated 12 February 2025
- Lot 7 Office Elevations, Drawing No. AIE.07.DA735, Issue E, prepared by SBA Architects, dated 7 February 2025
- Lot 7 Overall Sections, Drawing No. AIE.07.DA750, Issue C, prepared by SBA Architects, dated 7 February 2025
- Lot 7 Retaining Wall Details, Drawing No. AIE.07.SK703, Issue A, prepared by SBA Architects, dated 12 February 2025
- General Arrangement Plan, Drawing No. CV-AIE.B06.DA.2603-AT&L, Issue D, prepared by AT&L, dated 11 October 2024
- Typical Site Sections, Drawing No. CV-AIE.B06.DA.2610-AT&L, Issue D, prepared by AT&L, dated 10 February 2025

- Bulk Earthworks Cut & Fill Plan, Drawing No. CV-AIE.B06.DA.2660-AT&L, Issue E, prepared by AT&L, dated 10 February 2025
- General Arrangement Plan, Drawing No. CV-AIE.B07.DA.2703-AT&L, Issue E, prepared by AT&L, dated 24 January 2025
- Typical Site Sections Sheet 1, Drawing No. CV-AIE.B07.DA.2710-AT&L, Issue D, prepared by AT&L, dated 10 February 2025
- Typical Site Sections Sheet 2, Drawing No. CV-AIE.B07.DA.2711-AT&L, Issue G, prepared by AT&L, dated 13 February 2025
- Site Elevations, Drawing No. CV-AIE.B07.DA.2712-AT&L, Issue D, prepared by AT&L, dated 13 February 2025
- Bulk Earthworks Cut & Fill Plan, Drawing No. CV-AIE.B07.DA.2760-AT&L, Issue F, prepared by AT&L, dated 13 February 2025
- Cover Sheet Lot 6, Drawing No. LS-AIE-B06.DA.000, Issue D, 14 October 2024
- Plant Schedule Lot 6, Drawing No. LS-AIE-B06.DA.001, Issue C, 14 October 2024
- Landscape Plan Lot 6, Drawing No. LS-AIE-B06.DA.101, Issue D, 14 October 2024
- Landscape Plan Lot 6, Drawing No. LS-AIE-B06.DA.102, Issue D, 14 October 2024
- Landscape Plan Lot 6, Drawing No. LS-AIE-B06.DA.103, Issue D, 14 October 2024
- Landscape Plan Lot 6, Drawing No. LS-AIE-B06.DA.104, Issue D, 14 October 2024
- Cover Sheet Lot 7, Drawing No. LS-AIE-B07.DA.000, Issue E, 18 October 2024
- Plant Schedule Lot 7, Drawing No. LS-AIE-B07.DA.001, Issue D, 18 October 2024
- Landscape Plan Lot 7, Drawing No. LS-AIE-B07.DA.101, Issue E, 18 October 2024
- Landscape Plan Lot 7, Drawing No. LS-AIE-B07.DA.102, Issue E, 18 October 2024
- Landscape Plan Lot 7, Drawing No. LS-AIE-B07.DA.103, Issue E, 18 October 2024
- Landscape Plan Lot 7, Drawing No. LS-AIE-B07.DA.104, Issue D, 14 October 2024
- Landscape Plan Lot 7, Drawing No. LS-AIE-B07.DA.105, Issue E, 18 October 2024
- Landscape Plan Lot 7, Drawing No. LS-AIE-B07.DA.106, Issue E, 18 October 2024
- Landscape Details, Drawing No. LS-AIE-B07.DA.501, Issue B, 12 February 2024
- Geotechnical Investigations, Reference PSM3739-004L, prepared by PSM, dated 13 October 2020
- Waste Management Plan, prepared by MRA Consulting Group, dated 28 February 2023
- Ecologically Sustainable Development Report, Reference 301351424, prepared by Stantec, 28 February 2024
- Noise Impact Assessment, Reference No. 610.19127-R13-v1.1, prepared by SLR, dated 4 October 2024
- Operational Management Plan - Warehouse 6A, prepared by Urbis, receipted by Council on 4 March 2025
- Operational Management Plan - Warehouse 6B, prepared by Urbis, receipted by Council on 4 March 2025
- Operational Management Plan - Warehouse 7, prepared by Urbis, receipted by Council on 4 March 2025
- Operational Management Plan - Cafe and a Site Maintenance Office, prepared by Urbis, receipted by Council on 4 March 2025
- Green Travel Plan, Reference No. P2455r02v2, prepared by Ason Group, dated 2 April 2024

- 2 Prior to the issue of a Construction Certificate, a Validation Report, prepared by an appropriately qualified person, is to be submitted to and approved by the Senior Environmental Health Officer, Penrith City Council.

The Validation Report is to be prepared with consideration of the relevant NSW Environment Protection Authority contaminated land guidelines and is to confirm that the entire development site is suitable for the subject uses.

{Note: An appropriately qualified person is defined as “a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, ecotoxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance.”}

- 3 Details are to be provided to the Principal Certifier for consideration and approval, prior to the issue of a Construction Certificate, demonstrating that the external bin storage enclosure adjacent the cafe and site maintenance office building, is:
- Approximately 2.5m wide x 2m deep x 2.5m high;
 - Comprises of metal slatted walls and doors;
 - Includes a colourbond roof; and
 - finishes that are similar and / or in keeping with those of the cafe and site maintenance office building.
- 4 Any associated Conditions and the mitigation measures established in accordance with State Significant Development Consent No. SSD-10448 (as modified), which are relevant to the development, are to be complied with at all times.
- 5 A Construction Certificate shall be obtained prior to commencement of any building works.
- 6 With respect to development that involves excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, including a structure or work in a road or rail corridor, the applicant must at their own expense:-
- (a) protect and support any building, structure or work on adjoining land from possible damage from the excavation,
- (b) if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation.
- Note:** These requirements do not apply if:-
- (a) the person having the benefit of the development consent owns the adjoining land, or
- (b) the owner of the adjoining land gives written consent to the condition not applying.
- 7 Prior to the issue of the relevant Occupation Certificate, the following is to be implemented and be operational, to the satisfaction of the Principal Certifying Authority:
- The measures outlined within the Ecologically Sustainable Development Report, prepared by Stantec (Revision No. 1), dated 28 February 2024, submitted in support of the Development Application.
 - 100kW (or greater) solar power systems are to be provided on the rooftop of both warehouse buildings.
- 8 The development shall not be used or occupied until the relevant Occupation Certificate has been issued.
- 9 The following community safety and crime prevention through environmental design (CPTED) requirements, must be implemented:
- All outdoor spaces must be lit to the minimum Australian Standard of AS 1158. Lighting must be

consistent in order to reduce the contrast between shadows and illuminated areas and must be designed in accordance with AS 4282 - Control of the obtrusive effects of outdoor lighting.

- CCTV is to be provided. Cameras must be of sufficient standard to be useful for police in the event of criminal investigations. Lighting must be provided to support cameras at night (alternatively infra-red cameras are recommended). Signage must be displayed to indicate that CCTV cameras are in use.

Advisory notes:

- All areas of the car park should be well-lit, with consistent lighting to prevent shadowing or glare.
- Entrances to the offices and other focal areas should be easily identifiable, well signed and allow good visibility on approach and towards the public space.
- Graffiti resistant coatings are encouraged to be used for external surfaces where possible.
- Procedures are to be in place to ensure the prompt removal and / or repair of graffiti or vandalism. This includes reporting incidents to police and other relevant authorities.

10 (a) Lighting throughout both warehouse buildings is to comprise of energy efficient LED light fittings.

(b) Lighting is to be designed and directed so as to not cause light spill onto adjoining sites, the public road network, sensitive receivers or adjacent natural areas, and is to be provided in accordance with the requirements of Australian Standard 4282-1997 - Control of the obtrusive effects of outdoor lighting.

11 The approval of fencing and gates is limited to that shown on the approved Architectural type plans. All elements of the fencing, including the footings, is to be contained entirely within the development site and not encroach upon the any existing or future road corridor.

12 The approval of signage is limited to the business identification type signs, as shown on the approved Signage Plans. The signage:

- is not to flash, move or display electronic images;
- is to be maintained in a condition as to not become unsightly; and
- contents must relate to the existing and the approved use of the respective premises.

13 (a) **The use of the premises (including the use of 'Warehouse 6A', 'Warehouse 6B', 'Warehouse 7', the cafe and the site maintenance office) shall comply with the following requirements:**

(i) The approved Operational Management Plans.

(ii) All materials and goods associated with the uses, shall be stored within the building and not under any awning.

(iii) No retail sales or sales to the general public, shall be made from the premises (except cafe).

(iv) All waste, recycling and bins, are to be contained within designated Waste Management Area(s).

(v) The premises shall be maintained in a clean and tidy state at all times.

(vi) Site operations must not result in any vehicles queuing on the public road network.

(vii) All vehicular entries and exits to the site shall be made in a forward direction and all vehicles awaiting loading or unloading shall be parked on site and not on adjacent or nearby public roads.

(viii) Any activity carried out shall not give rise to air pollution (including odour), offensive noise or pollution of land and / or water as defined by the Protection of the Environment Operations Act 1997.

(ix) The approved Waste Management Plan

(x) The approved Ecologically Sustainable Development Report

(xi) The approved Noise Impact Assessment

(xii) The approved Green Travel Plan

(b) The use of 'Warehouse 6A', 'Warehouse 6B' & 'Warehouse 7' shall also comply with the following requirements:

(i) The approved hours of operation for the use of 'Warehouse 6A', 'Warehouse 6B' & 'Warehouse 7', are 24 hours per day, 7 days a week.

- (ii) Vehicles accessing the site shall be limited in a maximum size of a 26m long B- Double.
- (iii) A contract is to be held at all times with a licensed garbage and / or recycling contractor, for the collection of both rubbish and recycling.

(c) The use of the cafe shall also comply with the following requirements:

- (i) The approved hours of operation for the use of the cafe, are 5am and 5pm, seven (7) days a week.
- (ii) A maximum of 6 staff are to be on-site at any single time.
- (iii) Seating in relation to the premises is to be limited to provide for an overall maximum of 42 patrons.
- (iv) Servicing of the cafe is to be undertaken via the adjacent car parking area, by vehicles up to a size of a (8.8m long) medium rigid vehicle, outside of cafe operating hours.
- (v) Any deliveries to the cafe during cafe operating hours, are to be undertaken via the adjacent car parking area, using vehicles up to a size of a B99 vehicle (with a maximum length of 5.2m and width of 1.94m).
- (vi) A contract is to be held at all times with a licensed garbage and / or recycling contractor, for the collection of both rubbish and recycling.
- (vii) The requirements of the NSW Food Act, 2003, NSW Food Regulation, 2015 and the Australian and New Zealand Food Standards Code, are to be met at all times.
- (viii) A Food Safety Supervisor, with a current Food Safety Supervisor Certificate recognised by the NSW Food Authority, must be appointed at all times

(d) The use of the site maintenance office shall also comply with the following requirements:

- (i) The use of the site maintenance office is to be specifically limited to the maintenance of the broader site.
- (ii) The approved hours of operation for the use of the site maintenance office, are 6am and 6pm, Mondays to Fridays.
- (iii) A maximum of 2 staff are to be on-site at any single time.
- (iv) Servicing of the site maintenance office is to be undertaken via the adjacent car parking area, by vehicles up to a size of a (8.8m long) medium rigid vehicle, outside of cafe operating hours.

- 14 The maximum capacity of the cafe is 48 persons, including staff. In accordance with the requirements of the Environmental Planning and Assessment Regulation 2000, a sign must be displayed in a prominent position in the building, stating the maximum number of persons on site in relation to the cafe is 48 persons.
- 15 (a) The Applicant must ensure that noise generated by the operation of the development does not exceed the following operational noise limits:

Location	Day	Evening	Night
	L _{Aeq} (15 minute)	L _{Aeq} (15 minute)	L _{Aeq} (15 minute)
Residential receivers near Medinah Avenue (Luddenham), Mount Vernon Road (Mont Vernon) and Kerrs Road (Mont Vernon)	39 dB(A)	34 dB(A)	29 dB(A)
BAPS Temple – Outdoor Use Area (Except Car Parking Area)	36 dB(A) (when in use)		

To this effect, the Applicant must:

- Ensure compliance with the approved Noise Impact Assessment
- Ensure the cumulative noise emission of fixed external mechanical plant for each warehouse building do not exceed 90 dB(A) and do not exhibit tonal characteristic or strong low frequency content.

Note: Noise generated by the development is to be measured in accordance with the relevant procedures and exemptions (including certain meteorological conditions) of the NSW Noise Policy for Industry (EPA, 2017) (as may be updated or replaced from time to time).

Refer to the plan in Figure 1 of the Noise Impact Assessment for the location of residential sensitive receivers.

(b) Within 3 months of the commencement of operations of each warehouse, a Noise Verification Report is to be submitted to the satisfaction of the Senior Environmental Health Officer, Penrith City Council.

Each Noise Verification Report must be prepared by a suitably qualified and experienced acoustic consultant and include:

- (i) an analysis of compliance with the above operational noise limits.
- (ii) an outline of mitigation and management measures to reduce any exceedances of the above operational noise limits (excluding measures to be implemented at the receivers); and
- (iii) a description of contingency measures in the event management actions are not effective in reducing noise levels to an acceptable level.

Heritage/Archaeological relics

16 If any archaeological relics are uncovered during the course of works, no further work shall be undertaken until further directed by Penrith City Council or the NSW Heritage Office.

The Applicant is advised that depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the *Heritage Act 1977*, may be required before any further work can be recommenced in that area of the site.

Environmental Matters

17 Any construction related works involving the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties, are restricted to the following hours in accordance with the NSW Department of Environment and Climate Change's "Interim Construction Noise Guideline" 2009:

- Mondays to Fridays, 7am to 6pm
- Saturdays, 7am to 1pm (if inaudible on neighbouring residential premises), otherwise 8am to 1pm
- No work is permitted on Sundays and Public Holidays.

In the event that the work relates to activities inside the building and does not involve external walls or the roof, and does not involve the interim use of equipment that emits offensive noise, then the works are not restricted to the hours stated above. The provisions of the Protection of the Environment Operations Act 1997, in regulating offensive noise also apply to all works.

18 Construction works must be undertaken in accordance with the approved Noise Impact Assessment and the construction noise management provisions the Interim Construction Noise Guideline (as may be updated or replaced from time to time). All feasible and reasonable noise mitigation measures must be implemented, and any activities that could exceed the construction noise management levels must be identified and managed, in accordance with the management and mitigation measures referenced within the approved Noise Impact Assessment.

19 Dust suppression techniques are to be employed during all works to reduce any potential nuisances to surrounding properties.

20 Mud and soil from vehicular movements to and from the site, must not be deposited on the road.

- 21 No fill is to be imported to the site until a certificate demonstrating that the fill material is suitable, has been submitted to considered and approved by the Principal Certifier. This certificate may be in the form of a validation certificate, waste classification, or appropriate resource recovery order/exemption. A copy of a report forming the basis for the validation is also to be provided. The certification shall:
- be prepared by an appropriately qualified person with consideration of all relevant guidelines, standards, planning instruments and legislation (e.g. EPA, NEPM, ANZECC, NH&MRC),
 - clearly state the legal property description of the fill material source site and the total amount of fill tested,
 - provide details of the volume of fill material to be used in the filling operations,
 - provide a classification of the fill material to be imported to the site in accordance with the NSW Environment Protection Authority's "Waste Classification Guidelines" 2014, and
 - (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment

If the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation work may be requested. In these circumstances the works shall be carried out prior to any further approved works.

{Note: An appropriately qualified person is defined as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, ecotoxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."}

- 22 All construction related waste materials stored on-site are to be contained within a designated area, such as a waste bay or bin, to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas are to be fully enclosed when the site is unattended.
- 23 Waste materials associated with the development are to be classified and disposed of at a lawful waste facility, or, if suitable, re-used / recycled. Such works are to be undertaken in accordance with the approved Waste Management Plan, where applicable.

Where the disposal location or waste materials have not been identified in an approved waste management plan, details shall be provided to the Certifier prior to those works commencing.

All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

- 24 All chemicals, fuels and oils are to be stored and used on-site in appropriately bunded areas in accordance with the requirements of all relevant Australian Standards, and/or EPA's Storing and Handling of Liquids: Environmental Protection – Participants Manual (Department of Environment and Climate Change, 2007).
- 25 Only clean and unpolluted water is to be discharged into Penrith City Council's stormwater drainage system. Liquid wastes suitable for discharge to the mains sewer are to be discharged in accordance with Sydney Water requirements.

If mains sewer is not available or if Sydney Water will not allow disposal to the sewer then a suitable waste contractor is to remove the liquid waste from the premises to an appropriate waste facility.

Waste licensing requirements apply in NSW. Where required, the waste contractor and waste facility are to

be licensed by the NSW Environment Protection Authority. Reference should be made to the NSW Environment Protection Authority for licensing requirements.

- 26 Offensive odours are not to be emitted from the site. Vapours, fumes, gases, particles or any other substance that are considered to be harmful to human health or the environment or impact unreasonably on a person outside of the premises are not to be emitted from the site.
- 27 The quantities of dangerous goods stored and handled at the site must be below the threshold quantities listed in the Department of Planning's 'Hazardous and Offensive Development Application Guidelines – Applying SEPP 33' at all times.
- 28 Loading and unloading of oils, chemicals and any other liquid materials must only take place in a bunded area.
- 29 Wastewater from the washing of bins and / or waste storage areas is not to enter the stormwater system.

BCA Issues

- 30 All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:
 - (a) complying with the deemed to satisfy provisions, or
 - (b) formulating an alternative solution which:
 - complies with the performance requirements, or
 - is shown to be at least equivalent to the deemed to satisfy provision, or
 - (c) a combination of (a) and (b).

It is the owner's responsibility to place on display, in a prominent position within the building at all times, a copy of the latest fire safety schedule and fire safety certificate/ statement for the building.

Health Matters and OSSM installations

- 31 The construction, fit out and finishes of the cafe must comply with Food Safety Standard 3.2.3 of the Australian and New Zealand Food Standards Code, and AS4674-2004 Design, Construction and Fitout of Food Premises.
- 32 The cafe is to be serviced by a grease arrestor, which is to be:
 - installed in accordance with Sydney Water's requirements; and
 - not located within in any kitchen, food preparation or food storage type area.
- 33 (a) A satisfactory inspection from an authorised officer of Council's Environmental Health Department is required prior to the issue of an Occupation Certificate for the cafe.

Please contact the Council's Environmental Health Department to organise an appointment at least 72 hours prior to the requested inspection time.

(b) Prior to the issuing of the commencement of cafe trading, the Occupier must register their food business with Penrith City Council by completing Council's "Registration of Premises - Food" Form. The occupier of

the premises must notify Council within 7 days of any change of details.

Utility Services

- 34 A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. Our assessment will determine the availability of water and wastewater services, which may require extensions, adjustments, or connections to our mains. Make an early application for the certificate, as there may be assets to be built and this can take some time. A Section 73 Compliance Certificate must be obtained before an Occupation or Subdivision Certificate will be issued.

Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator.

Go to the Sydney Water website or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

- 35 The plans must be approved by Sydney Water prior to demolition, excavation or construction works commencing. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Any amendments to plans will require re-approval. Please go to 'Sydney Water Tap in' to apply.

Sydney Water recommends developers apply for a Building Plan Approval early as to reduce unnecessary delays to further referrals or development timescales.

- 36 Prior to the issue of a Construction Certificate, a written clearance is to be obtained from Endeavour Energy stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.

In the event that a pad mounted substation is necessary to service the development, Penrith City Council shall be consulted over the proposed location of the substation before the Construction Certificate for the development is issued as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council.

- 37 Prior to the issue of a Construction Certificate, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following:
- The requirements of the *Telecommunications Act 1997*;
 - For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
 - For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.

Construction

- 38 Details are to be provided to the Principal Certifier for consideration and approval, prior to the issue of a Construction Certificate, demonstrating that:
- Construction techniques are to be implemented which will prevent structural damage to the development as a result of salinity; and
 - All works are to conform with the Western Sydney Salinity Code of Practice.

A qualified practising Geotechnical Engineer must confirm that works have been completed, to prevent structural damage as a result of salinity and in accordance with the Western Sydney Salinity Code of Practice, prior to the issuing of the relevant Occupation Certificate.

- 39 Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the Principal Certifying Authority, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended,
- and all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details are to be erected:

- at the commencement of, and for the full length of the, construction works onsite, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed when the Occupation Certificate has been issued for the development.

- 40 Prior to the commencement of construction works:
- (a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:

- a standard flushing toilet connected to a public sewer, or
- if that is not practicable, an accredited sewage management facility approved by the council, or
- alternatively, any other sewage management facility approved by council.

(b) All excavations and back filling associated with the erection of a building must be executed safely and in accordance with the appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

(c) If an excavation associated with the erection of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- must preserve and protect the building from damage, and
- if necessary, must underpin and support the building in an approved manner, and
- must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land, (includes a public road and any other public place).

(d) If the work involved in the erection of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place:

- if necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place,
- the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place, and
- any such hoarding, fence or awning is to be removed when the work has been completed.

41 The location of each building shall be set out by a Registered Surveyor. A Survey Certificate shall be undertaken and submitted to the Principal Certifying Authority immediately prior to the positioning of wall panels / bricks or block work.

Additionally, a Survey Certificate of the location of any building upon completion, shall be undertaken and submitted to the Principal Certifying Authority, prior to the issue of the relevant Occupation Certificate. The Survey Certificate is to show the boundaries of the allotment and the distances of the building from the boundaries.

Engineering

42 All roadworks, stormwater drainage works, signage, line marking, associated civil works and dedications required to effect the consented development shall be undertaken by the applicant at no cost to Penrith City Council.

43 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to commencement of any works on site or prior to the issue of any Construction Certificate, whichever occurs first. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

An application form together with an information sheet and conditions are available on Council's website.

Please contact Penrith City Council's Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

44 Lodgement of relevant Section 138 Roads Act applications, including payment of application and Council fees together with any applicable bonds, shall be lodged with and approved by Penrith City Council (being the Roads Authority for any works required in a public road).

You are required to lodge the applicable Section 138 Roads Act application for the below works that apply to your specific development prior to that work activity commencing. Please liaise with your builder to determine what applications are required for your development.

These works may include but are not limited to the following:

a) Construction of driveways (including kerb reinstatement of redundant driveway crossings and

- reconstruction of any affected footpaths and/or cycleways)
- b) Temporary road reserve occupancies
 - c) Road reserve openings for the installation of:
 - i. Utilities (water, sewer, power, telecommunications)
 - ii. Private stormwater connections to the kerb (including stormwater connection to Penrith City Council owned drainage)
 - iii. Reconstruction of concrete footpath and/or cycleways across the frontage
 - d) Establishment of a construction work zone
 - e) Establishment of road reserve hoardings and temporary structures/fencing etc.
 - f) Operation of a tower crane over the road reserve
 - g) Temporary ground anchors that encroach below the road reserve (for basement construction).

All works shall be carried out in accordance with the Roads Act Approval and the conditions outlined in the Roads Act Applications, the development consent, including the stamped approved plans, and Penrith City Council's Driveway and Road Reserve Restoration Works Specification, guidelines and engineering best practice.

Contact Penrith City Council's Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

Note:

- Separate approval may be required from Transport for NSW for classified roads.
- All works associated with the Roads Act approval(s) must be completed prior to the issue of any relevant Occupation Certificate.
- On completion of any awning over the road reserve, a certificate from a practicing structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act.

- 45 Prior to work activity commencing in relation to the stormwater works within the Council road reserve, such as the conversion of kerb inlet grate to V-grate, the Principal Certifier shall ensure that an associated Section 138 Roads Act application, including payment of application and inspection fees, has been approved by Penrith City Council (being the Roads Authority under the Roads Act) for the undertaking of such works (i.e. the stormwater works within the Council road reserve, including the conversion of kerb inlet grate to V-grate).

The Section 138 Roads Act application in relation to the stormwater works within the Council road reserve, is to be accompanied by engineering plans, prepared in accordance with this Development Consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines, and best engineering practice.

Contact Penrith City Council's Development Engineering Department on 4732 7777 to obtain a formal fee proposal prior to lodgement and visit Penrith City Council's website for more information.

Note:

- Where Penrith City Council is the Certifier for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- Separate approval may be required from the Transport for NSW for classified roads.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate.

- 46 Final Engineering Plans and supporting calculations for the stormwater management systems (prepared by a suitably qualified person) shall accompany the application for a Construction Certificate, which are

generally in accordance with the Civil Works Drawings and the Civil Infrastructure Reports, which accompanied the Development Application.

The final Engineering Plans and Civil drawings, are to incorporate the use of permeable paving, turf cells or gravel cells, in the locations as shown on the approved 'Lot 6 Permeable Paving Plan' and the approved 'Lot 7 Permeable Paving Plan'. Alternate locations within the car parking area and / or pedestrian type areas can be considered, subject to such achieving a permeable paved area which is consistent with the approved Permeable Paving Plans.

Provision should be made in completing the final stormwater design, to enable a seamless connection to Sydney Water's Regional Stormwater Scheme, including the associated decommissioning of on-site rainwater harvesting and re-use systems.

Prior to the issue of any relevant Construction Certificate the Principal Certifier shall ensure that the stormwater management system has been designed in accordance with Council's Stormwater Drainage for Building Developments and the Technical Guidance for Achieving Wianamatta South Creek Stormwater Management Targets (NSW Government, 2022).

- 47 Until connection is available to Sydney Water's Regional Stormwater Scheme rainwater tanks are to provide at least 80% of non-potable water reuse (such as for toilet flushing and irrigation purposes) for each specific building.
- 48
 - a. All vehicle parking spaces, parking aisles and driveways / circulation area, are to be designed and constructed in accordance with AS2890.1, AS2890.2 and AS2890.6.
 - b. Prior to the issue of a Construction Certificate, the Principal Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas, are provided in accordance with the approved plans, AS2890.1, AS2890.2 and AS2890.6.
 - c. The required sight lines around the driveway entrances are not to be compromised by landscaping, fencing or signage.
 - d. Car parking spaces shall be provided in accordance with the approved plans.
 - e. Wheel stops shall be provided along the front of all car parking spaces, in accordance with AS 2890.1 - Parking Facilities.
 - f. Each space shall be permanently line marked at all times.
 - g. All parking spaces, loading zones, parking aisles and manoeuvring areas are to be kept clear of stored materials, products and waste materials, such that these areas remain unobstructed and allow for the safe movement of vehicles.
 - h. Staff, company and visitor vehicles, are to be parked in the spaces provided on the subject premises and not on adjacent footpaths or landscaping areas.
- 49 Bicycle parking is to be provided as shown on the approved plans and in accordance with the provisions of AS2890.3 Bicycle Parking Facilities.
- 50 Prior to the issue of the relevant Occupation Certificate, the Principal Certifier is to ensure that permeable paving, turf cells or gravel cells, has been used throughout the car parking areas, and associated driveway, access and manoeuvring areas, in accordance with the Final Engineering Plans and achieves a permeable paved area which is consistent with the approved Permeable Paving Plans.
- 51 Prior to the issue of any construction certificate or any preparatory, demolition or excavation works for Warehouses 6 and 7, whichever is the earlier, the Applicant shall prepare a Construction Pedestrian and Traffic Management Plan (CPTMP) in consultation with TfNSW.
- 52 Prior to the commencement of any works, a Construction Traffic Management Plan is to be approved by

Penrith City Council's Asset Management Department. The Construction Traffic Management Plan is to be prepared by a suitably qualified consultant, with appropriate training and certification from Transport for NSW. The Construction Traffic Management Plan shall include details of any required road closures, work zones, loading zones and the like.

It is noted that the Construction Traffic Management Plan may require approval of the Local Traffic Committee. Please contact Council's Asset Management Department on 4732 7777 and refer to Council's website for a copy of the Temporary Road Reserve Occupancy Application Form.

- 53 Prior to the issue of a Roads Act approval, a Performance Bond is to be lodged with Penrith City Council, for provision of stormwater works within the Council Road Reserve, including the conversion of kerb inlet grate to V-grate.

The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges.

Please contact Penrith City Council's Development Engineering Department on 4732 7777 for further information relating to bond requirements.

- 54 Prior to the issue of any construction certificate or any preparatory, demolition or excavation works for Warehouses 6 and 7 the Applicant shall have the signalised intersection of Mamre Road / Access Road 1 completed and operational. The temporary construction vehicle access on Mamre Road shall be removed upon completion and operation of the Mamre Road / Access Road intersection to the satisfaction of TfNSW and Council.

- 55 (a) Prior to the issue of a Construction Certificate, a final Erosion and Sediment Control Plan, and associated drawings, is to be approved by the Principal Certifier, which:
- Incorporates the erosion and sediment commitments outlined in the Concept Erosion and Sediment Control Plan (prepared by AT&L Project No. 18-596, dated 13 March 2024), submitted in support of the Development Application;
 - Includes sediment basins with an automated system of flocculant dosing; and
 - Demonstrates compliance with the construction stage requirements outlined in Part 2.4 of the of the Mamre Road Precinct Development Control Plan 2021 and the associated requirements of the Technical guidance for achieving Wianamatta–South Creek stormwater management targets (DPE 2022).

(b) The Applicant must ensure the delivery and operation of all erosion and sediment controls in accordance with the final Erosion and Sediment Control Plan, and such is supervised and certified by a Certified Professional in Erosion and Sediment Control (CPESC).

(c) Erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.

(d) Monthly audits are to be completed by a Certified Professional in Erosion and Sediment Control (CPESC) and kept on record for the duration of the works and an additional 12 months following the completion of works.

- 56 All earthworks shall be undertaken in accordance with AS3798 and Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments and Engineering Construction Specification for Civil Works.

The level of testing shall be determined by the Geotechnical Testing Authority / Superintendent, in

consultation with the Principal Certifier.

- 57 Prior to the issue of the relevant Occupation Certificate, the Principal Certifier shall ensure that all works associated with any associated Section 138 Roads Act approval, has been inspected and signed off by Penrith City Council.
- 58 Prior to the issue of the relevant Occupation Certificate, the Principal Certifying Authority shall ensure that the stormwater management system (including water sensitive urban design measures):
- Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
 - Have met the design intent with regard to any construction variations to the approved design.
 - Any remedial works required to be undertaken have been satisfactorily completed.

Details of the approved and constructed system/s shall be provided as part of the works-as-executed drawings.

- 59 Prior to the Issue of an Occupation Certificate, the Principal Certifier must ensure that the precinct bioretention system provided as part of the stormwater management measures for the overall Aspect Industrial Estate, is operational and embellished with final layers of filter media and planted with vegetation (as per the design).
- 60 Prior to the issue of the relevant Occupation Certificate, works-as-executed drawings, final operation and maintenance management plans and any other compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, WSUD Technical Guidelines and Stormwater Drainage for Building Developments.

An original set of works-as-executed drawings and copies of the final operation and maintenance management plans and compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the relevant Occupation Certificate where Council is not the Principal Certifying Authority.

- 61 Prior to the issue of the relevant Occupation Certificate a restriction as to user and positive covenant relating to the stormwater management systems (including water sensitive urban design measures) shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater Drainage Specification for Building Development – Appendix F
- 62 Prior to the issue of the relevant Occupation Certificate, vehicle entry and exit signage that is clearly visible from the public roads shall be placed within the development site, in accordance with the approved 'Signage Plans'.
- 63 Prior to the issue of the relevant Occupation Certificate, a Maintenance Bond is to be lodged with Penrith City Council for the new stormwater connection and new V-grate within the Council Road Reserve (Pemul Place).

The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges.

Please contact Penrith City Council's Development Engineering Department on 4732 7777 for further information relating to bond requirements.

64 Stormwater management systems shall be operated and maintained in perpetuity to the satisfaction of Council, in accordance with the final operation and maintenance management plan.

Regular inspection records are required to be maintained and made available to Council upon request. Any necessary improvements are required to be made immediately upon awareness of any deficiencies in the treatment measure/s.

Landscaping

65 All landscape works are to be completed in accordance with the stamped approved Landscape Plans.

Landscaping shall be maintained:

- in accordance with the approved plans;
- to achieve its mature dimensions and form, unless otherwise specified and approved (for example hedging);
- in a healthy state; and
- in perpetuity by the existing or future owners and occupiers of the property.

If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity, as the vegetation which died or was removed.

66 Certain tree species placed in proximity to Sydney Water's underground assets have the potential to inflict damage through invasive root penetration and soil destabilisation. Section 46 of the *Sydney Water Act 1994*, specifies what might occur when there is interference or damage to our assets caused by trees.

For any trees proposed or planted that may cause destruction of, damage to or interference with our work and are in breach of the *Sydney Water Act 1994*, Sydney Water may issue an order to remove that tree or directly remove it and seek recovery for all loss and associated compensation for the removal.

For guidance on types of trees that can cause damage or interference with our assets see Sydney Water webpage Wastewater blockages. For guidance on how to plant trees near our assets, see Diagram 5 – Planting Trees within *Sydney Water's Technical guidelines – Building over and adjacent to pipe assets*.

67 All landscape works are to meet industry best practice and the following relevant Australian Standards:

- AS 4419 Soils for Landscaping and Garden Use,
- AS 4454 Composts, Soil Conditioners and Mulches, and
- AS 4373 Pruning of Amenity Trees.

68 On completion of the landscape works associated with the development and prior to the issue of the relevant Occupation Certificate, a Landscape Implementation Report, must be prepared by a suitably qualified and experienced landscape professional, attesting to the satisfactory completion of the landscaping works for the development.

A copy of the Landscape Implementation Report is to be provided to the Principal Certifying Authority and to the Senior Development Assessment Planner, Penrith City Council, prior to the issue of any relevant Occupation Certificate.

69 From the commencement of building works and in perpetuity, the entire site is to be maintained as an Inner Protection Area, in accordance with the requirements of Appendix 4 of Planning for *Bush Fire Protection*

2019.

The following landscaping specifications apply to achieve the Inner Protection Area for the proposed development:

- Trees at maturity should not touch or overhang the building.
- Tree crowns should not provide a connected canopy between the identified hazard and the building when at maturity.
- Ensure gaps in the vegetation, such as between garden beds, to prevent the spread of fire towards the building.
- Clumps of shrubs should be separated from glazing and doors by a distance of at least twice the height of the vegetation.
- Grass should be kept mown (as a guide grass should be kept to no more than 100mm in height).
- Leaves and vegetation debris should be regularly removed.
- Organic mulch is not to be used within 1m of a building.

Section 94

70 The Applicant is reminded of obligations of the Planning Agreement between Council and the Landowner, that was executed on 11 March 2024. Any relevant obligations in the Voluntary Planning Agreement associated with the proposed development, are to be satisfied in accordance with such.

71 A special infrastructure contribution must be made in accordance with the *Environmental Planning and Assessment (Special Infrastructure Contribution - Western Sydney Aerotropolis) Determination 2022* (as in force when this development consent takes effect).

A person may not apply for a subdivision certificate or construction certificate (as the case may require, having regard to the Determination) in relation to development the subject of this development consent unless the person provides, with the application, written evidence from the Department of Planning and Environment that the special infrastructure contribution for the development (or that part of the development for which the certificate is sought) has been made or that arrangements are in force with respect to the making of the contribution.

More information

A request for assessment by the Department of Planning and Environment of the amount of the contribution that is required under this condition can be made through the NSW Planning Portal. Please refer enquiries to SIContributions@planning.nsw.gov.au.

Certification

- 72 Prior to the commencement of any earthworks or construction works on site, the Applicant is to:
- (a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and accompanying Regulation, and
 - (b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifier shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 6.6 of the *Environmental Planning and Assessment Act 1979*.

Information to accompany the Notice of Commencement

At least two (2) days before any earthworks or construction works commence on site, the Applicant shall submit a "Notice of Commencement" to Council in accordance with Section 6.6 of the *Environmental Planning and Assessment Act 1979*.

SIGNATURE

Name:	Robert Walker
Signature:	

For the Development Services Manager